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8
9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF NEVADA**

11 TAKO, LLC,

12 Plaintiff,

13 vs.

14 PARNELL COLVIN,

15 Defendant.

Case No.: 2:22-cv-02047-APG-EJY

DEFENDANT TAKO LLC'S
EMERGENCY MOTION TO
REMAND

16 COMES NOW, Plaintiff TAKO LLC (hereinafter "Tako" or "Defendant"), by and through
17 its counsel, TAYLOR SIMPSON, ESQ. of KERR SIMPSON ATTORNEYS AT LAW, and
18 hereby respectfully submits this Emergency Motion to Remand.
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Pursuant to LR 7-4, this Motion is based on the following Memorandum of Points and Authorities, the Declaration of Taylor Simpson, Esq. attached hereto as **Exhibit 1**, the papers and pleadings on file herein, and the argument of counsel at any hearing of this matter.

DATED this 12th day of December 2022.

KERR SIMPSON ATTORNEYS AT LAW

/s/ Taylor Simpson, Esq.
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This matter could be the poster child for abuse of process. Plaintiff Parnell Colvin (hereinafter “Mr. Colvin”) has sought to remain in possession of the leased premises without paying rent for nearly four years. Mr. Colvin has been able to achieve such an unscrupulous feat by routinely abusing the federal removal process and the bankruptcy process. This matter was originally a simple summary eviction matter brought in the Las Vegas Justice Court by Defendant Tako, LLC (hereinafter “Tako”) because Mr. Colvin failed to fulfill his obligations to pay rent. However, Mr. Colvin has filed bankruptcy ten times within the last nine years. Six of said bankruptcies were filed within three years in order to avoid Tako’s eviction attempts. Furthermore, Mr. Colvin’s latest attempts at subterfuge and delay include filing the present removal action despite the Honorable Judge Silva remanding the case with prejudice barely more than a month

ago (Case No. 2:22-cv-00082-CDS-DJA, Docket No. 38). The Court lacks subject-matter jurisdiction to hear the matter. Tako respectfully requests an emergency order remanding the matter (again) and enter an order sanctioning Mr. Colvin by forbidding him from removing this matter again.

II. LEGAL ARGUMENT

a. The Court Should Remand this Matter as there is no Basis for Federal Jurisdiction.

Generally, pursuant to 28 U.S.C. § 1441, a lawsuit may be removed from state court to federal court, in which the federal court has original jurisdiction, an issue of federal law or stemming from the U.S. Constitution. *See* 28 U.S.C. § 1441(a). Additionally, pursuant to 28 U.S.C. § 1441, removal of a lawsuit from state court to federal court may be based on complete diversity of citizenship between the Parties, as long as the controversy in question exceeds \$75,000.00. *See* 28 U.S.C. § 1441(b).

Here, there is no basis for federal jurisdiction because this matter is a simple summary eviction matter with no diversity and no issues of federal law. First, there is no diversity jurisdiction. Colvin resides in the property, which is located in Clark County, Nevada. Tako is a Nevada entity and its members are both residents of Clark County, Nevada. Thus, there is no diversity jurisdiction.

Second, there is no federal question. The justice court action is a simple summary eviction proceeding under NRS 40.251 et seq. for Mr. Colvin's unlawful detainer and failure to pay his rental obligations. There are no questions of federal law. Therefore, the Court should remand the matter to the Las Vegas Justice Court.

b. Tako Respectfully Requests Special Instructions in the Order Remanding the Case.

Tako respectfully requests that if the Court is inclined to grant this Emergency Motion, that

1 the Court include in the Order language affirmatively prohibiting Mr. Colvin from any future
2 attempts to remove this case again. As this Court is no doubt painfully aware, this Court issued an
3 order on November 7, 2022 dismissing/remanding this matter back to the Las Vegas Justice Court
4 with prejudice for lack of subject matter jurisdiction (Case No. 2:22-cv-00082-CDS-DJA). Tako
5 promptly filed a Motion to Place the Matter back on Calendar. *See* Motion to Place on Calendar
6 attached hereto as **Exhibit 2**. In response, Mr. Colvin improperly filed yet another removal creating
7 Case No. 2:22-cv-01928-CDS-NJK. *See* Motion to Continue Summary Eviction Hearing attached
8 hereto as **Exhibit 3**. In response, the Las Vegas Justice Court entered an Order Vacating Hearing
9 and Continuing Stay Under Federal Removal Notice. *See* Order Vacating Hearing and Continuing
10 Stay Under Federal Removal Notice attached hereto as **Exhibit 4**. In said Order, the Las Vegas
11 Justice Court stated:

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14 This hearing officer was informed that the court must recognize the current
15 removal notice and stay the action further. This court may move forward if
16 the Federal Court affirmatively prohibits the Tenant from filing a new
removal as it pertains to this eviction action or sanctions the Tenant in some
other form which makes it clear the Justice Court may proceed.

17 On November 16, 2022, Tako filed an Emergency Motion to remand in Case No. 2:22-cv-
18 01928-CDS-NJK (Docket No. 4). In said case, The Honorable Judge Silva issued an Order to Show
19 Cause why Mr. Colvin should not be declared a vexatious litigant (Docket No. 10). On December
20 5, 2022, after reviewing Mr. Colvin's moving papers, Judge Silva issued an Order denying Mr.
21 Colvin's Motion for removal and granting Tako's Motion to Remand (Docket No. 12). Said Order
22 also terminated the case. On December 6, 2022, Tako filed yet another Motion to Place the eviction
23 on calendar in the Las Vegas Justice Court. *See* Motion to Place on Calendar attached hereto as
24 **Exhibit 5**. The Las Vegas Justice Court granted the Motion and set the matter for hearing for
25 December 12, 2022. *See* Order attached hereto as **Exhibit 6**. Mr. Colvin filed a plethora of
26 pleadings including a Motion to Dismiss Eviction, a Motion to Continue Summary Eviction, a
27
28

1 Motion for Recusal of hearing Master David Brown, and a Notice of Removal. The Notice of
2 Removal created the instant case. In response to Mr. Colvin's Notice of Removal, the Las Vegas
3 Justice Court issued an Order vacating the hearing. *See* Order Vacating Hearing attached hereto as
4 **Exhibit 7.**

5 Tako, in desperation, respectfully requests that should the Court grant this Emergency
6 Motion and that the Court include in the Order some further instruction that Mr. Colvin is
7 sanctioned or prohibited from any future removal attempts of this action, that any such further
8 removal attempts of this action by Mr. Colvin are null and void, and that the Justice Court may
9 disregard any such future attempts and may continue. Tako is convinced given Mr. Colvin's
10 duplicitous track history, that if the Court does not issue such special instructions/sanctions, Mr.
11 Colvin will no doubt attempt to remove the action again.

12
13 **III. CONCLUSION**

14 In conclusion, Tako respectfully requests the Court remand the instant case and issue
15 special instructions and/or sanctions that forbid any future removal attempts.

16 DATED this 12th day of December 2022.

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18 KERR SIMPSON ATTORNEYS AT LAW

19
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CERTIFICATE OF SERVICE

I certify that I am an employee of Kerr Simpson Attorneys at Law, and the on the 22nd day of December 2022, a true and correct copy of the foregoing **DEFENDANT TAKO LLC'S EMERGENCY MOTION TO REMAND** was electronically filed with the Clerk of the Court by using CM/ECF service which will provide copies to all parties of record registered to receive CM/ECF notification and via first class United States mail.

Parnell Colvin
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Defendant, Pro Se

/s/ Lisa Peters
An employee KERR SIMPSON ATTORNEYS
AT LAW